

present section but with references to different acts and provisions, prior to repeal by Pub. L. 100-707, §105(g).

A prior section 310 of Pub. L. 93-288 was renumbered section 307 by Pub. L. 100-707 and was classified to section 5150 of this title, prior to repeal by Pub. L. 109-295.

§ 5154. Insurance

(a) Applicants for replacement of damaged facilities

(1) Compliance with certain regulations

An applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure) or section 3149(c)(2) of this title shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

(2) Determination

In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

(b) Maintenance of insurance

No applicant for assistance under section 5172 of this title (relating to repair, restoration, and replacement of damaged facilities), section 5189 of this title (relating to simplified procedure), or section 3149(c)(2) of this title may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this chapter unless all insurance required pursuant to this section has been obtained and maintained with respect to such property. The requirements of this subsection may not be waived under section 5141 of this title.

(c) State acting as self-insurer

A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 5172 or 5189 of this title or section 3149(c)(2) of this title or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 5172 or 5189 of this title for any property or part thereof for which it has previously received assistance under this chapter, to the extent that insurance for such property or part thereof would have been reasonably available.

(Pub. L. 93-288, title III, §311, as added Pub. L. 100-707, title I, §105(h), Nov. 23, 1988, 102 Stat. 4692; amended Pub. L. 103-325, title V, §521, Sept. 23, 1994, 108 Stat. 2257; Pub. L. 106-390, title II, §201, Oct. 30, 2000, 114 Stat. 1559.)

REFERENCES IN TEXT

This chapter, referred to in subsecs. (b) and (c), was in the original "this Act", meaning Pub. L. 93-288, May

22, 1974, 88 Stat. 143. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

PRIOR PROVISIONS

A prior section 5154, Pub. L. 93-288, title III, §314, May 22, 1974, 88 Stat. 151, consisted of similar provisions, prior to repeal by Pub. L. 100-707, §105(h).

A prior section 311 of Pub. L. 93-288 was renumbered section 308 by Pub. L. 100-707 and is classified to section 5151 of this title.

AMENDMENTS

2000—Subsecs. (a)(1), (b), (c). Pub. L. 106-390 substituted "section 3149(c)(2) of this title" for "section 3233 of this title".

1994—Subsec. (b). Pub. L. 103-325 inserted at end "The requirements of this subsection may not be waived under section 5141 of this title."

§ 5154a. Prohibited flood disaster assistance

(a) General prohibition

Notwithstanding any other provision of law, no Federal disaster relief assistance made available in a flood disaster area may be used to make a payment (including any loan assistance payment) to a person for repair, replacement, or restoration for damage to any personal, residential, or commercial property if that person at any time has received flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable Federal law and subsequently having failed to obtain and maintain flood insurance as required under applicable Federal law on such property.

(b) Transfer of property

(1) Duty to notify

In the event of the transfer of any property described in paragraph (3), the transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of the requirements to—

(A) obtain flood insurance in accordance with applicable Federal law with respect to such property, if the property is not so insured as of the date on which the property is transferred; and

(B) maintain flood insurance in accordance with applicable Federal law with respect to such property.

Such written notification shall be contained in documents evidencing the transfer of ownership of the property.

(2) Failure to notify

If a transferor described in paragraph (1) fails to make a notification in accordance with such paragraph and, subsequent to the transfer of the property—

(A) the transferee fails to obtain or maintain flood insurance in accordance with applicable Federal law with respect to the property,

(B) the property is damaged by a flood disaster, and

(C) Federal disaster relief assistance is provided for the repair, replacement, or restoration of the property as a result of such damage,

the transferor shall be required to reimburse the Federal Government in an amount equal

to the amount of the Federal disaster relief assistance provided with respect to the property.

(3) Property described

For purposes of paragraph (1), a property is described in this paragraph if it is personal, commercial, or residential property for which Federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement, or restoration of the property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable Federal law with respect to such property.

(c) Omitted

(d) "Flood disaster area" defined

For purposes of this section, the term "flood disaster area" means an area with respect to which—

(1) the Secretary of Agriculture finds, or has found, to have been substantially affected by a natural disaster in the United States pursuant to section 1961(a) of title 7; or

(2) the President declares, or has declared, the existence of a major disaster or emergency pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), as a result of flood conditions existing in or affecting that area.

(e) Effective date

This section and the amendments made by this section shall apply to disasters declared after September 23, 1994.

(Pub. L. 103-325, title V, § 582, Sept. 23, 1994, 108 Stat. 2286.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (d)(2), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of this title and Tables.

The amendments made by this section, referred to in subsec. (e), means the amendments made by section 582(c) of Pub. L. 103-325, which amended section 4012a of this title. See Codification note below.

CODIFICATION

Section is comprised of section 582 of Pub. L. 103-325. Subsec. (c) of section 582 of Pub. L. 103-325 amended section 4012a of this title.

Section was enacted as part of the National Flood Insurance Reform Act of 1994 and as part of the Riegle Community Development and Regulatory Improvement Act of 1994, and not as part of the Robert T. Stafford Disaster Relief and Emergency Assistance Act which comprises this chapter.

§ 5155. Duplication of benefits

(a) General prohibition

The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assist-

ance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source.

(b) Special rules

(1) Limitation

This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

(2) Procedures

The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits.

(3) Effect of partial benefits

Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

(4) Waiver of general prohibition

(A) In general

The President may waive the general prohibition provided in subsection (a) upon request of a Governor on behalf of the State or on behalf of a person, business concern, or any other entity suffering losses as a result of a major disaster or emergency, if the President finds such waiver is in the public interest and will not result in waste, fraud, or abuse. In making this decision, the President may consider the following:

(i) The recommendations of the Administrator of the Federal Emergency Management Agency made in consultation with the Federal agency or agencies administering the duplicative program.

(ii) If a waiver is granted, the assistance to be funded is cost effective.

(iii) Equity and good conscience.

(iv) Other matters of public policy considered appropriate by the President.

(B) Grant or denial of waiver

A request under subparagraph (A) shall be granted or denied not later than 45 days after submission of such request.

(C) Prohibition on determination that loan is a duplication

Notwithstanding subsection (c), in carrying out subparagraph (A), the President may not determine that a loan is a duplication of assistance, provided that all Federal assistance is used toward a loss suffered as a result of the major disaster or emergency.

(c) Recovery of duplicative benefits

A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The